

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Jamal Khan Mandokhail
Justice Naeem Akhter Afghan
Justice Aqeel Ahmed Abbasi

Criminal Petition for Leave to Appeal No.1448 of 2026

[Against the order dated 17.07.2026 passed by the Lahore High Court, Lahore in Crl. Misc. No.39257-B/2026]

Farman Ali Khan		...Petitioner(s)
	<i>Versus</i>	
The State & another		...Respondent(s)
For the Petitioner(s)	: Syed Abdul Rehman, AHC Syed Rafaqat Hussain Shah, AOR	
For the State	: Mrs. Memoona Ehsan ul Haq, DPG Punjab a/w Kazim, ASI	
For the Complainant(s)	: Mr. Nadeem-ud-Din Malik, ASC	
Date of Hearing	: 22.09.2026	

ORDER

Aqeel Ahmed Abbasi, J.- Through the instant Criminal Petition for Leave to Appeal the petitioner has impugned the judgment dated 17.07.2026, passed by the Lahore High Court, Lahore, in Crl. Misc. No.39257-B/2026, whereby pre-arrest bail filed by the petitioner has been dismissed.

2. Briefly stated, the allegation against the petitioner is that he fraudulently issued cheque valuing Rs.5,847,000/- in favour of respondent No.2, but when the same was presented for encashment, it stood dishonoured by the concerned bank.

3. Learned counsel for the petitioner contends that the learned High Court has failed to appreciate the fact that the FIR suffers from unexplained delay which is indicative of deliberated fabrication. He further contends that the disputed cheques were issued merely as security for business transactions and not for an existing financial debt. He argues that during the course of investigation, the investigating officer determined the actual liability at Rs.1,700,000/- instead of Rs.5,847,000/- which proves that the story of FIR is incorrect, rendering this a case of further inquiry. Learned counsel argues that the essential ingredients of Section 489-F PPC, 1860, dishonest intention and an established liability are absent, making this into a civil liability so the criminal litigation is besides the mark. He further argues that the offence

does not fall under the prohibitory clause of Section 497 Cr.P.C, 1898, and given the apparent malafide on part of the respondent No.2 and the lack of incriminating evidence against the petitioner, the case falls within the ambit of further inquiry under Section 497(2) Cr.P.C, 1898. Lastly, learned counsel has emphasized that pre-arrest bail is necessary to protect the petitioner, a reputable businessman, from humiliation, irreparable harm to his rights and unjustified incarceration.

4. Conversely, the learned DPG and the learned counsel for respondent No.2 have opposed the grant of bail to the Petitioner on the grounds that the petitioner is nominated in the FIR with specific role of issuance of bogus cheques in favour of respondent No.2 and that the issuance of cheque is not specifically denied by the petitioner. They have argued that there is nothing on record to show any malafide of respondent No.2 for false implication of the petitioner in this case and that the petitioner was found guilty during course of investigation. It has been prayed that the criminal petition for leave to appeal be dismissed.

5. We have heard the learned counsel for both the parties at some length and have perused the available record with their assistance.

6. Perusal of the record reveals a stark contradiction between the allegations contained in FIR and the actual findings rendered by the investigating officer (“IO”) of the present case. The FIR alleges a default of Rs.5,847,000/-, while the police investigation concluded that the petitioner owed no more than Rs.1,700,000/- to the respondent No.2. This substantial discrepancy between the face value of the financial instrument i.e. cheque and the actual outstanding amount determined during investigation by the IO *prima facie* corroborate the stance of the petitioner that the cheques were handed over as surety/security in an ongoing commercial business rather than towards a fixed, liquidated debt due on the date of issuance. When a financial instrument is delivered as surety during ongoing commercial business dealings and the specified sum does not represent an established, undisputed liability, the primary element of Section 489-F PPC i.e. dishonest intention (*malafide*) is missing. The provision of section 489-F PPC is intended to punish fraudulent defaults, not to serve as a recovery mechanism or a tool of coercion

to enforce disputed monetary claims arising out of commercial arrangements. We observe that the underlying dispute between the parties is predominantly civil in nature and the attempt to convert a purely civil dispute into a criminal proceeding to exert pressure on the petitioner, *prima facie* reflects *malafide* and ulterior motive on part of respondent No.2, satisfying the requirement for the grant of pre-arrest bail. Furthermore, the offence under Section 489-F PPC carries a maximum punishment of three years and does not fall within the prohibitory clause of Section 497 Cr.P.C, 1898. Grant of bail in such offences is a rule and its refusal is an exception, which may only be invoked in extraordinary situations i.e. proven risk of absconsion of the accused or tampering with prosecution evidence.

7. Additionally, the case of the petitioner falls squarely within the ambit of further inquiry entitling him for grant of pre-arrest bail. The above aspects particularly the discrepancy between the amount mentioned in cheque and the liability determined by the IO, requires further probe and could not be conclusively resolved at this stage.

8. Accordingly, instant criminal petition for leave to appeal is allowed. The impugned order dated 17.07.2026 passed by the Lahore High Court, Lahore is set aside. The ad-interim pre-arrest bail earlier granted to the petitioner, by this Court vide order dated 07.09.2026 is hereby confirmed on the same bail bonds already furnished. The observations made hereinabove are purely tentative in nature and shall not influence the trial court during the ultimate decision of the case on its merits.

Judge

Judge

Islamabad, the
22nd Sept, 2026
Approved for Reporting
Zainab, Judicial Law Clerk / *

Judge